

ROBERT P. MARX,
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A LAW CORPORATION

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Attorney for Plaintiff
DEBRA HARRIS

Electronically Filed
THIRD CIRCUIT
3CCV-21-0000323
02-NOV-2021
11:58 AM
Dkt. 1 CMPS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

DEBRA HARRIS,

Plaintiff,

vs.

WALMART; WALMART INC; JOHN DOES 1-10, JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE JOINT VENTURES 1-10; and DOE GOVERNMENTAL ENTITIES 1-10, Inclusive,

Defendants.

Civil No. _____
(Hilo) (Other Non-Vehicle Tort)

COMPLAINT; SUMMONS

COMPLAINT

COMES NOW Plaintiff DEBRA HARRIS by and through her attorney, ROBERT P. MARX, ATTORNEY AT LAW, A LAW CORPORATION and for a claim for relief against Defendants above-named herein alleges and avers as follows:

1. Plaintiff DEBRA HARRIS is a resident in the County and State of Hawaii;
2. Plaintiff is informed and believes that Defendant WALMART and WALMART, INC., is a foreign profit corporation registered in Hawaii and doing business in the

EXHIBIT A

County and State of Hawaii; and is, upon information and belief, jointly and severally responsible for the acts and omissions of Defendants herein;

3. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, DOE JOINT VENTURES 1-10, DOE GOVERNMENTAL ENTITIES 1-10, inclusive are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names and will ask leave of court to amend this Complaint to substitute the true names and capacities when same are ascertained;
4. Due and diligent search by Plaintiff and her counsel was done to ascertain the names and identities, and parts thereof of these unnamed Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, DOE JOINT VENTURES 1-10, DOE GOVERNMENTAL ENTITIES 1-10, inclusive;
5. Plaintiff is informed and believes and therefore alleges that each of the specified Defendants and those designated as JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, DOE JOINT VENTURES 1-10, DOE GOVERNMENTAL ENTITIES 1-10, inclusive, are responsible for the events and happenings herein referred to, and that their negligent conduct caused the damages sustained by Plaintiff as herein alleged, either through the said Defendants or through the conduct of their agents or their permissive users;
6. At all times herein mentioned, Defendants and each of them, were acting as the agents, servants, and employees of the other Defendants herein, and each of them, were acting within the scope of the agency and employment concerned;

7. The cause of action complained of herein arose in the City of Hilo, County and State of Hawaii, therefore this matter is properly before the Court;
8. On or about November 25, 2019, Plaintiff DEBRA HARRIS was struck, suddenly and without warning from a mechanical shopping cart pusher. The two unnamed employees operating the machine holding about 20 carts, pinned her on the bench she was sitting on WALMART's Hilo store (hereinafter "premises"), located at 325 Maka'ala Street, City of Hilo, County and State of Hawaii 96720;
9. Defendant(s) WALMART and WALMART, INC. were the owners, planners and/or managers of the premises;
10. At all times herein mentioned, Defendant(s) were acting as the agent, representative, registrant, servant, and/or employee of Defendant(s) WALMART STORES and WALMART, INC., and was acting within the scope of such agency, representation, registrant, servitude and/or employment;
11. Upon information and belief, the specific machine that was used by Defendant(s) was inoperable and malfunctioning;
12. At all times relevant herein, Defendants owned, inspected, controlled, managed and/or maintained the premises and equipment;
13. At all times relevant herein, Defendant(s) were responsible for, participated in and/or were otherwise involved in the inspection of the premises and equipment to ensure compliance with the basic safety standards;
14. At all times relevant herein, Defendant(s) knew or should have known of the hazardous conditions and/or unreasonable risks of harm posed to Plaintiff DEBRA HARRIS and others using the subject equipment;

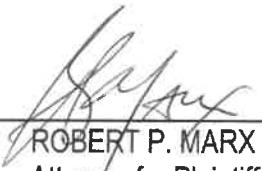
15. At all times relevant herein, Defendant(s) had a duty to the occupants of the premises to take reasonable steps to eliminate the use of hazardous equipment and/or unreasonable risk of harm;
16. At all times relevant herein, Defendant(s) had a duty to the occupants of the premises to adequately warn of the hazardous conditions of equipment and/or unreasonable risk of harm;
17. At all times relevant herein, Defendant(s) had a duty to the occupants of the premises to exercise reasonable care for their safety;
18. At all times relevant herein, Defendant(s) had a duty to the occupants of the premises to properly and adequately inspect the Premises and equipment for such hazardous conditions and/or unreasonable risk of harm;
19. Defendant(s) negligently breached their duties to the occupants of the premises and the resulting damages suffered by Plaintiff were directly and proximately caused by the negligence of Defendant(s);
20. Due to Defendants' negligent acts and/or omissions in not properly inspecting the equipment, the premises were unsafe;
21. The negligent acts and/or omissions of Defendant(s) were the direct and proximate cause of the injuries and damages suffered by Plaintiff;
22. At all times relevant herein, Defendant(s) negligently failed to exercise ordinary care in ensuring that the equipment was reasonably safe to use and were otherwise negligent in keeping the area safe to the public;
23. Defendants' negligence was an actual and proximate cause of the injuries sustained by Plaintiff DEBRA HARRIS;

24. As a direct and proximate result of Defendants' negligence, Plaintiff DEBRA HARRIS suffered serious injuries and suffered great pain of body and mind;
25. Damages sustained by the Plaintiff are in excess of the minimum jurisdictional requirements of this Court.

WHEREFORE, Plaintiff prays for the following relief as follows:

1. For general and special damages for Plaintiff DEBRA HARRIS in an amount to be proven at arbitration hearing and/or trial;
2. For pre-judgment and post-judgment interest, attorney's fees and costs as to Plaintiff;
3. For other and further relief as this Court deems just.

DATED: Hilo, Hawaii, November 2, 2021.



ROBERT P. MARX
Attorney for Plaintiff
DEBRA HARRIS

Debra Harris vs. Walmart, Walmart, Inc., et. al. COMPLAINT; SUMMONS

STATE OF HAWAI'I CIRCUIT COURT OF THE THIRD CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT		CASE NUMBER
PLAINTIFF DEBRA HARRIS	VS.	DEFENDANT(S) WALMART; WALMART INC; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE JOINT VENTURES 1-10, and DOE GOVERNMENTAL ENTITIES 1-10, Inc, et al.	Electronically Filed THIRD CIRCUIT 3CCV-21-0000323 02-NOV-2021 11:58 AM Dkt. 2 CMPS

PLAINTIFF'S NAME & ADDRESS, TEL. NO.

DEBRA HARRIS in the care of
Robert P. Marx, Attorney at Law, a Law Corporation
688 Kinoole Street, Suite 105
Hilo, HI 96720
(808) 935-8988

TO THE ABOVE-NAMED DEFENDANT(S)

You are hereby summoned and required to file with the court and serve upon

Robert P. Marx, Attorney at Law, a Law Corporation
688 Kinoole St. Hilo, HI 96720

, plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

**THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON
PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED
COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.**

**A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT
JUDGMENT AGAINST THE DISOBEDIING PERSON OR PARTY.**

The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us	Effective Date of 28-Oct-2019 Signed by: /s/ Cheryl Salmo Clerk, 3rd Circuit, State of Hawai'i	
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In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on HAWAII- Phone No. 808-961-7424, TTY 808-961-7422, FAX 808-961-7411, at least ten (10) working days prior to your hearing or appointment date.